COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BURKESVILLE GAS COMPANY, INC. AND CONSOLIDATED FINANCIAL RESOURCES, INC.	)	
AN INVESTIGATION INTO THE ADEQUACY AND RELIABILITY OF GAS SUPPLY AND ALLEGED FAILURE TO COMPLY WITH AN ORDER OF THE PUBLIC SERVICE COMMISSION	)	CASE NO. 94-238

O R D E R

The Commission initiated this investigation on June 24, 1994, requiring Burkesville Gas Company, Inc. ("Burkesville Gas") and Consolidated Financial Resources, Inc. ("Consolidated") to present evidence concerning an alleged failure to comply with the Commission's October 28, 1992 Order in Case No. 90-290,[1] and to demonstrate why penalties should not be assessed pursuant to KRS 278.990(1) for this alleged failure. Burkesville Gas and Consolidated were also required to present evidence concerning the adequacy and reliability of Burkesville Gas's natural gas supply for the 1994-95 heating season. Consolidated is the majority shareholder of Burkesville Gas and is "involved in the marketing, financial development and resource acquisition, management assistance and the arrangement of long-term instruments of indebtedness" for

---

1 Case No. 90-290, Investigation to Determine Whether an Adequate Means for Delivery of Gas is Available to Burkesville Gas Company, Inc. (October 28, 1992).

Burkesville Gas.[2] Pitman Creek Marketing Corporation ("Pitman Creek"), one of Burkesville Gas's suppliers, intervened in this proceeding. An informal conference was held and Burkesville Gas and Pitman Creek both appeared represented by counsel at a public hearing held on August 31, 1994.

Compliance with the October 28, 1992 Order

Burkesville Gas concedes that it has not complied with the Commission's October 28, 1992 Order in Case No. 90-290.[3] Specifically, the Commission ordered monthly deposits of $0.05 per Mcf of gas to be placed into an escrow account to pay for use of a five mile section of pipeline ("Ft. Knox line"); and monthly reports were ordered filed showing the amount deposited and the volume of gas transported. According to Burkesville Gas, its noncompliance ". . . was an oversight;"[4] "[w]e just forgot to do it."[5]

Burkesville Gas agrees that prior to its August 9, 1994 submission,[6] which brought the filing requirements current through June 1994, only four reports had been submitted to the Commission. While Burkesville Gas argues that the monthly filing requirements

---

2 Agreement between Ken-Gas of Kentucky, Inc. and Burkesville Gas Company, Inc., dated February 7, 1991, page 2.

3 Transcript of Evidence ("T.E."), pages 26-27; and Brief on Behalf of Burkesville Gas in Response to Show Cause Order ("Brief"), pages 2 and 12.

4 T.E., page 26.

5 Id., page 27.

6 Case No. 94-238, Response filed by Burkesville Gas to the Commission's June 24, 1994 Order.

were brought current once this case was established, the four reports during the period November 27, 1992 (when the first report was due) through February 2, 1994 were submitted due to telephone calls from Commission Staff.[7] In addition, in reviewing its files, the Commission notes that since the August 31, 1994 hearing, Burkesville Gas has submitted reports for each month through February 1995, except for September 1994.

In its Brief, Burkesville Gas suggests that any fine assessed should be the minimum since its failure was an oversight and the deposits and reports are now current.[8] Burkesville Gas also requests that the Commission amend its Order to allow monthly reports to be filed within 45 days of the end of the month.

Burkesville Gas withdrew $1,661.75 from the escrow account for repairs on the Ft. Knox line.[9] The repairs were performed by Burkesville Gas employees and the amount withdrawn was to compensate Burkesville Gas for the expenses incurred. Burkesville Gas admits that Commission approval to use the escrow funds for these repairs was not obtained in advance.[10] Burkesville Gas now requests the Commission approve these expenses and grant it

---

[7] T.E., page 28.

[8] Brief, page 13.

[9] Id., pages 91-93; and Notice of Filing of Additional Documents on Behalf of Burkesville Gas Company, Inc. ("Notice of Filing"), filed August 12, 1994, Attachment 1.

[10] T.E., page 94.

authority to deduct from the escrow account any future costs to repair the pipeline.

Based upon Burkesville Gas's admissions, the Commission finds that Burkesville Gas has willfully failed to obey the directives set forth in the October 28, 1992 Order, regarding the filing of escrow account reports. Burkesville Gas should be penalized pursuant to KRS 278.990(1) for its willful disregard of the October 28, 1992 Order. The issue of whether funds deposited into the escrow account can be withdrawn shall be considered by the Commission following review of the information required herein.

Gas Supply

Burkesville Gas purchases its current gas supply from Gulf Gas Utilities ("Gulf Gas"), under a contract originally negotiated between Burkesville Gas and Consolidated Fuels, which was assigned by Consolidated Fuels to Gulf Gas effective July 1, 1994.[11] Gas is delivered through an interstate pipeline owned by Texas Eastern Transmission Corporation ("Texas Eastern") to Kentucky Energy Transmission ("K.E.T.") at a tap in Metcalfe County, Kentucky. Gas is then transported through K.E.T.'s intrastate pipeline and the Ft. Knox line to Burkesville Gas. Burkesville Gas's contract with Gulf Gas provides deliveries via the Texas Eastern pipeline on an interruptible basis. Burkesville Gas asserts that Gulf Gas can deliver gas on a "noninterruptible," or firm basis if Burkesville

[11] Id., pages 17-18; and Notice of Filing, Attachment 4.

Gas pays an additional $0.60 per Mcf.[12] Burkesville Gas has not addressed whether a monthly demand charge may also be incurred to acquire firm transportation through Gulf Gas's contract.

Burkesville Gas has presented several options[13] to assure deliveries of gas to its system. One, paying Gulf Gas an additional $0.60 per Mcf, would assure that Gulf Gas's deliveries are firm and uninterruptible on Texas Eastern's pipeline. The remaining options would supplement Burkesville Gas's existing interruptible contract with Gulf Gas when the supply is interrupted: spot purchases from Woodward Marketing, Inc.;[14] curtailment; spot purchases from Pitman Creek; or installation of a peak-shaving system to inject propane.

None of these options has apparently been implemented and some appear infeasible. No contract to purchase spot gas from Woodward Marketing has been submitted to the Commission, and no curtailment plan has been proposed.[15] There is no evidence that the Gulf Gas contract has been amended to ensure firm deliveries of gas to the K.E.T. tap in Metcalfe County, Kentucky. Purchasing gas from Pitman Creek appears unlikely given existing litigation between the

---

12 Brief, pages 6-8.

13 Brief, pages 6-8.

14 As it did in February 1994 when Burkesville Gas's supply from Pitman Creek was interrupted.

15 Such plan was supposed to have been developed by October 15, 1994.

two parties;[16] and based upon testimony, it is unclear whether Pitman Creek's supply could enter the K.E.T. or Ft. Knox lines if each is operating at higher pressures.

Burkesville Gas also raised the issue of a pipeline bottleneck in a three-inch section of the Ft. Knox line which restricts the amount of gas which can enter the distribution system. Burkesville Gas asserts that the bottleneck could be eliminated by increasing the maximum operating pressures of two sections of the K.E.T. pipeline, and the three-inch section of the Ft. Knox line. The bottleneck could also be eliminated by either installing high pressure regulators at certain points on each of these pipelines or by replacing the three-inch section of the Ft. Knox line with a new six-inch pipeline.[17]

Pressure tests were performed on the two sections of the K.E.T. pipeline and the Ft. Knox line to determine if their maximum operating pressures could be safely increased.[18] Submitted test results indicate that these sections of pipeline could be operated at higher pressures, thereby moving more gas through each section. While the consultant who performed the tests recommended increasing the maximum operating pressures on these pipelines, it is unclear

---

16 Pitman Creek Marketing Corporation, Plaintiff v. Burkesville Gas Company, Inc., Defendant, 94-CI-00023, filed March 5, 1994 in Cumberland Circuit Court.

17 T.E., pages 77-78, and 82.

18 Notice of Filing Test Reports from Energy Management and Services Company as Addenda to Brief on Behalf of Burkesville Gas filed November 7, 1994.

from the record whether that action has been completed in compliance with 807 KAR 5:022, Section 3(9) and (10).

The failure of Burkesville Gas to provide a firm, uninterruptible gas supply to its customers is a continuing concern. While the bottleneck in the Ft. Knox line can apparently be eliminated by increasing the operating pressures of the K.E.T. and Ft. Knox lines, that remedy is of little use if the present gas supply is interrupted on the Texas Eastern pipeline.

Service to Burkesville Gas customers was interrupted during the 1993-94 heating season. Burkesville Gas stated that two complete failures occurred in November 1993 when service to all its customers was temporarily disrupted;[19] and it experienced two partial supply disruptions, one in December 1993, and the other in January 1994 which affected customers in Marrowbone.[20] Each of these incidents occurred while Pitman Creek was supposed to be supplying gas. Burkesville Gas blames the disruptions on Pitman Creek's operation of its facilities.[21] Except in one case, Pitman Creek denies these charges.[22] Burkesville Gas failed to notify the Commission regarding the two disruptions in November 1993, a probable violation of 807 KAR 5:027, Section 3(1).

---

19 T.E., pages 56-57; and 101.

20 Id., pages 56-57; and 102.

21 Id., pages 36-39; and Brief, page 10.

22 T.E., pages 112-113.

While Burkesville Gas alleges it "had no curtailment of its gas supply during the coldest times" of the 1993-94 heating season, it admits that three of its industrial customers were asked to curtail their usage for a period of time in February 1994.[23] Therefore, in at least this instance, Burkesville Gas avoided interruption of gas service to its residential customers only because of a voluntary curtailment by other customers.

There is no curtailment plan in Burkesville Gas's tariff on file with the Commission. Absent such plan, or a provision in a customer's contract which allows curtailment of service, Burkesville Gas is required to maintain firm, uninterrupted gas service to all sales customers at all times. If it wishes to offer interruptible service to its customers, it should propose appropriate rates and conditions of service to be included in its tariff. If it wishes to establish a curtailment plan, one should be proposed and submitted to the Commission for review and approval. Otherwise, Burkesville Gas must supply its customers with firm service.

Situations may arise beyond a gas company's control where a partial disruption of gas supply may occur; this is why curtailment plans exist. However, the situations described by Burkesville Gas in this proceeding which led to disruptions in gas supply and curtailment of service could have been avoided if the appropriate steps had been taken prior to the 1993-94 heating season.

---

23 Id., pages 66-67.

Burkesville Gas's inattention to its public service obligation is highlighted by its proposal to install a propane peak-shaving plant. In 1992, Burkesville Gas presented a similar proposal[24] and estimated that installation would take 4 to 5 days. While the current proposal may be a scaled-down version of the earlier plant, the proposal was absurd then and remains so. Burkesville Gas operates a natural gas distribution company, not a propane gas company. It may want to consider the use of a propane/air peak-shaving plant to deal with unanticipated peak load conditions on its system. However, the purpose of such a plant is to supplement the natural gas supply in a natural gas distribution system; not to replace a natural gas supply which has been interrupted. This option demonstrates Burkesville Gas's lack of understanding of the purpose of such a plant and of its obligation to serve.

The Commission concludes that Burkesville Gas should file information on the following options presented, including the feasibility, timeframe, and economic impact to implement each: amending the contract with Gulf Gas to require firm deliveries of gas to the K.E.T. tap; entering into a contract with Woodward Marketing which allows purchases and delivery of gas on a firm, as-needed basis; or entering into a contract with a local supplier which guarantees supply and can deliver the supply as needed.

---

[24] Case No. 90-290, Order entered October 28, 1992, pages 9-10.

Burkesville Gas should also develop a curtailment plan, including conditions and priorities for curtailment. Burkesville Gas may also want to consider proposing an amendment to its tariff to offer interruptible gas service, stating the proposed rates and conditions for such service.

After considering the evidence of record and being otherwise sufficiently advised, the Commission HEREBY ORDERS that:

1. A penalty in the amount of $850 is assessed against Burkesville Gas for its willful failure to comply with the terms of the Commission's October 28, 1992 Order in Case No. 90-290.

2. Burkesville Gas shall pay the assessed penalty within 20 days of the date of this Order by certified or cashier's check made payable to "Treasurer, Commonwealth of Kentucky" and delivered to the Office of General Counsel, Public Service Commission of Kentucky, 730 Schenkel Lane, P. O. Box 615, Frankfort, Kentucky 40602.

3. Within 20 days of the date of this Order, Burkesville Gas shall file with the Commission information which clarifies the type of repairs made on the Ft. Knox pipeline and the reason these repairs were necessary. No funds shall be withdrawn from the escrow account without notice to and the approval of the Commission.

4. Within 20 days of the date of this Order, Burkesville Gas shall file information with the Commission indicating whether the maximum operating pressures on the K.E.T. and Ft. Knox lines have been increased as recommended by its consultant and in compliance

with 807 KAR 5:022, Section 3(9) and (10). If yes, the information shall include the date the changes were made.

5. Within 30 days of the date of this Order, Burkesville Gas shall file with the Commission information regarding the feasibility, timeframe, and economic impact to implement the following options: amending the Gulf Gas contract to require firm deliveries of gas; entering into a contract with Woodward Marketing to purchase gas on a firm, as-needed basis; and entering into a contract with a local supplier which guarantees supply and deliverability of gas on an as-needed basis.

6. Within 30 days of the date of this Order, Burkesville Gas shall file with the Commission for its approval a gas curtailment plan which describes conditions and priorities for curtailment. This plan shall be filed as a proposed amendment to its tariff.

7. Ordering Paragraph 1 of the Commission's October 28, 1992 Order shall be vacated in part. The monthly reports required therein shall be filed with the Commission no later than 45 days after the conclusion of each month.

Done at Frankfort, Kentucky, this 19th day of May, 1995.

PUBLIC SERVICE COMMISSION

Chairman

Robert M. Davis

Vice Chairman

ATTEST:

Don Mills

Executive Director

Linda K Breathitt

Commissioner